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9
10 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
11 OF THE STATE OF CALIFORNIA

12 In the Matter of:)	CFL APPLICATION NO.: 1600832
)	
13 THE COMMISSIONER OF BUSINESS)	ACCUSATION TO BAR RACHEL G. KESSEE
14 OVERSIGHT,)	FROM ANY POSITION OF EMPLOYMENT,
)	MANAGEMENT OR CONTROL OF ANY
15 Complainant,)	FINANCE LENDER, BROKER, OR
16 v.)	MORTGAGE LOAN ORIGINATION
)	
17 RACHEL G. KESSEE,)	
)	
18 Respondent.)	
)	
19)	

20 Commissioner of Business Oversight (Commissioner) files this Accusation to bar Rachel G.
21 Kessee (Kessee) from employment, management or control of any finance lender, broker, or
22 mortgage loan originator. The Commissioner alleges, and charges as follows:

23 **I.**

24 **Introduction**

25 1. The Commissioner licenses and regulates mortgage loan originators, finance lenders,
26 and brokers under the California Financing Law (Fin. Code, § 22000 et seq.) (CFL), and licenses and
27 regulates mortgage loan originators, residential mortgage lenders, and residential mortgage servicers
28 under the California Residential Mortgage Lending Act (Fin. Code, §50000 et seq.) (CRMLA).

1 2. To become licensed by the Commissioner as a mortgage loan originator (MLO), an
2 individual must submit a uniform application form (known as the MU2 or MU4 form) through the
3 Nationwide Mortgage Licensing System & Registry (NMLS). The NMLS contains a detailed set of
4 instructions for filing license applications, including a checklist of items to be completed by the
5 applicant, who is fully responsible for all the requirements of the license.

6 3. On May 08, 2018, Rachel Kessee (Kessee) applied for an MLO license with
7 the Commissioner (file number 1600832; hereinafter, Application) by submitting a Form
8 MU4 through the NLMS. Concurrently with this Accusation, the Commissioner noticed
9 her intent to issue an order denying Kessee's pending Application.

10 4. The Commissioner brings this action to bar Kessee from any position of employment,
11 management or control of any finance lender, broker or mortgage loan originator because Kessee has
12 been held liable in a civil action by final judgment, or an administrative judgment by a public
13 agency, and the civil or administrative judgment involves an offense involving dishonesty, fraud, or
14 deceit, or any other offense reasonably related to the qualifications, functions, or duties of a person
15 engaged in the business in accordance with the provisions of the CFL, pursuant to Financial Code
16 section 22169, subdivision (a)(2).

17 **II.**

18 **Statement of Facts**

19 5. On September 28, 1998, the Real Estate Commissioner for the Department of Real
20 Estate (DRE), entered an Order revoking the license and license rights of Respondent (1998 Order).

21 6. According to the 1998 Order, beginning in or about March 1996, Kessee conducted
22 business in violation of the Real Estate Law by: (i) using an unlicensed fictitious business name; (ii)
23 permitting an unlicensed person to perform unlicensed activities; and (iii) negligently operating
24 North American Funding — an entity controlled by Kessee. As a result of Kessee's violations of the
25 Real Estate Law, on February 23, 1997, the DRE revoked Kessee's real estate broker license and
26 issued a restricted salesperson licensee to Kessee.

27 7. The 1998 Order further states that beginning about May 1998, Kessee engaged in acts
28 involving fraud, dishonest dealing, and mishandling of trust fund, resulting in a civil judgement

1 against Kessee. As noted in the 1998 Order, in or about October 1997, a small claims court entered
2 judgement against Kessee for misappropriating trust funds totaling \$1,500.00, which an individual
3 paid to Kessee for use in buying a property but which Kessee converted for her personal use.

4 8. The 1998 Order described Kessee’s conduct as constituting “fraud and/or dishonest
5 dealing and ... a cause to suspend or revoke the real estate license and license rights of Respondent.”
6 Kessee failed to appear at the hearing of the accusation filed against her and consequently an
7 administrative court entered judgment against Kessee.

8 9. On May 08, 2018, Kessee submitted a Mortgage Loan Originator License application
9 (MU4) to the Commissioner through the NMLS and the Commissioner’s review of DRE’s Public
10 License Information website disclosed the 1998 Order.

11 **III.**

12 **Grounds to Bar**

13 10. Section 22169 provides, in pertinent part:

14 (a) The commissioner may, after appropriate notice and opportunity
15 for hearing, by order, censure or suspend for a period not
16 exceeding 12 months, or bar from any position of employment,
17 management, or control any finance lender, broker, mortgage loan
18 originator, or any other person, if the commissioner finds either of
19 the following:

20 ...

21 (2) That the person has... been held liable in any civil action by final
22 judgment, or any administrative judgment by any public agency, if that
23 crime or civil or administrative judgment involved any offense
24 involving dishonesty, fraud, or deceit, or any other offense reasonably
25 related to the qualifications, functions, or duties of a person engaged in
26 the business in accordance with the provisions of this division.

27 11. The Commissioner finds that Kessee was held liable by an administrative court for
28 committing acts of fraud, dishonest dealing, and mishandling trust fund. The 1998 Order explicitly
states that Kessee’s acts constitute fraud and dishonest dealing. The Commissioner hereby finds that
the above-referenced actions against Kessee by the DRE and the facts upon which such actions were
issued, constitute grounds under Financial Code section 22169(a) to bar Kessee from any position of

1 employment with, or management or control of, any finance lender, broker, or mortgage loan
2 originator, in that it is in the public interest, and pursuant to Financial Code section 22169(a)(1),
3 Kessee has failed to demonstrate the financial responsibility, character, and general fitness as to
4 command the confidence of the community and to warrant a determination that she will operate
5 honestly, fairly, and efficiently within the purposes of the governing law, as required under Financial
6 Code section 22109.1(a)(3).

7 **IV.**

8 **Conclusion**

9 Based on the foregoing, the Commissioner’s action to bar Kessee pursuant to Financial
10 Code section 22169, subdivision (a)(2) is in the public interest.

11 WHEREFORE, IT IS PRAYED that Rachel G. Kessee be barred in the State of California
12 from any position of employment, management or control of any California finance lender pursuant
13 to California Financial Code sections 22169(a)(2).

14 Dated: September 11, 2018

JAN LYNN OWEN
Commissioner of Business Oversight

17 By _____
18 UCHE L. ENENWALI
19 Senior Counsel
20 Enforcement Division

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